

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,) CASE NO. 14-CV-2071 YGR
Plaintiff,)
v.)
BURTON ORVILLE BENSON.)
Defendant.)

This matter came before the Court on the Motion of Plaintiff United States of America for an order preliminarily enjoining and restraining Defendant Burton Orville Benson (“Defendant”) from violating 18 U.S.C. § 1341 (Mail Fraud), 18 U.S.C. § 1343 (Wire Fraud), and 18 U.S.C. § 1957 (Money Laundering) through his alleged scheme to defraud the Energy, Research, and Generation, Inc. Profit Sharing Plan (the “Plan”) and Plan participants by committing theft of plan assets, and enjoining Defendant from alienating and disposing of property obtained as a result of said violations.

Plaintiff's Motion also requested appointment of an Independent Fiduciary to replace Defendant as trustee of the Plan. On May 16, 2014, Plaintiff and Intervenor Bryan Leyda submitted proposed candidates to serve as trustee and independent fiduciary upon Defendant's resignation for the Court's consideration.

On May 23, 2014, the Court issued an Order Granting Preliminary Injunction against Defendant and granted the Plaintiff's request for appointment of an Independent Fiduciary.

Having considered Plaintiff and Intervenor's proposals, and additional information concerning the qualification of the proposed appointees, and for good cause shown, **IT IS HEREBY ORDERED** that:

1. In accordance with the Preliminary Injunction issued by this Court on May 23, 2014, Defendant is enjoined from acting as the Plan's trustee and/or fiduciary to obtain any money under the

1 custody or control of the Plan and Plan Participants. Nicholas Saakvitne is appointed as trustee,
2 independent fiduciary, and plan administrator of the ERG Profit Sharing Plan pursuant to the terms set
3 forth in the Preliminary Injunction and in the "Energy, Research, and Generation, Inc. Profit Sharing
4 Plan Fiduciary Services Agreement tendered by Nicholas L. Saakvitne," attached hereto as **EXHIBIT A**
5 ("the Agreement"). The Agreement, including all terms and provisions thereof, is approved by the
6 Court.

7 2. In addition, David Lipkin of Metro Benefits shall work in conjunction with Mr. Saakvitne
8 to carry out the rights, powers, authority, and obligations set forth in the Preliminary Injunction, and in
9 particular shall conduct a forensic accounting analysis.

10 3. Mr. Saakvitne shall confer with Mr. Lipkin forthwith to outline an approach for
11 proceeding with the forensic analysis, and shall confer telephonically with the Court within two weeks
12 to discuss the same.

13 **IT IS SO ORDERED.**

14
15 Dated: May 27, 2014


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

EXHIBIT A